

REMARKS

A Request for a (1) Month Extension of Time pursuant to 37 CFR §1.136(a) and (b) is attached hereto.

A new claim 60 has been added. Support for the new claim is found on pages 7-8 of the Applicants specification. No new matter has been added.

The Examiner states that claims 1, 8-12, 28-30, 36-38 and 42 are rejected under 35 U.S.C 102(e) as being anticipated by Johnson., U.S. Patent No. 6,185,307 (hereinafter '307).

Referring to independent claim 1, claim 1 recites in part

"A portable keying device for installing a data communications encryption key in at least one electronic terminal...comprising:...a communications unit...being operative to transmit the at least one data communications encryption key in a predetermined format to the electronic terminal".

The Examiner indicates that the above recited subject matter is described by the Johnson ('307) reference and cites portions of Johnson including (Column 3, Lines 25-67) and (Column 4, Lines 1-6). The Examiner also states that the "portable keying device" has the same meaning as "tag" and that "data communications encryption key" has the same meaning as "session key".

The Applicant asserts that the Johnson ('307) reference not only fails to teach or suggest "transmitting an encryption key" and in fact, teaches away from the subject matter of transmitting an encryption key. With respect to transmitting an encryption key, the Johnson reference states "Security is enhanced... if the key used for encryption and decryption is never transmitted" (underline added) (Column2, Lines 48-50) and further states that "The system should avoid transmitting cryptography keys" (underline added) (Column 2, Lines 58-59).

With respect to (Column 3, Lines 25-67) of the Johnson ('307) reference, the cited text recites in part "The tag then encrypts the random number ...using a cryptography key and transmits the encrypted random number back to the POS device"

(underline added) (Column 3, Lines 34-37). Hence, the tag (portable keying device) transmits an encrypted random number and not an "encryption key" as recited within claim 1.

The random number is sent to the tag by the POS device. The tag has a tag identifier and cryptography key. The POS device recovers the tag identifier and receives the encrypted random number from the tag and passes the tag identifier, random number, the encrypted random number to a host system. The host system determines the cryptography key from the tag identifier and encrypts the random number using the cryptography key, and compares the encrypted random number encrypted by the tag with the encrypted random number encrypted by the host system. If both encrypted random numbers match, the tag is valid (Column 3, Lines 30-47).

Hence, the purpose of transmitting an encrypted random number is not associated with the transmission of an encryption key, but is instead is for the purpose of avoiding the transmission of an encryption key. As a result, Johnson fails to teach or suggest "A portable keying device...operative to transmit at least one...encryption key" and further, Johnson does not describe a device for installing an encryption key, as claimed by the Applicant's claim 1.

In summary, the Johnson reference fails to teach more than one limitation of the Applicant's claim 1. Accordingly, the Applicant respectfully requests that the Examiner allow claim 1. As a matter of law, because claim 1 arguably distinguishes over the cited art, claims 2-16 which depend from claim 1, also arguably distinguish over the cited art. Accordingly, the Applicant respectfully requests that the Examiner allow claims 2-16.

Referring to independent claim 28, claim 28 recites in part "A method for installing a data communications encryption key in an electronic terminal" and "transmitting an encryption key from the portable keying device to the electronic terminal" (underline added). The Examiner indicates that the above recited subject matter is described by the Johnson ('307) reference and cites portions of Johnson including (Column 3, Lines 25-35).

The arguments for the allowance of claim 1 apply to the arguments for the allowance of claim 28. As explained with respect to claim 1, the Johnson reference fails to teach or suggest “A method for installing a data communications encryption key” and “transmitting an encryption key from the portable keying device to the electronic terminal” (underline added) as recited in part, within claim 28.

In summary, the Johnson reference fails to teach at least one limitation of the Applicant's claim 28. Accordingly, the Applicant respectfully requests that the Examiner allow claim 28. As a matter of law, because claim 28 arguably distinguishes over the cited art, claims 29-38 which depend from claim 28, also arguably distinguish over the cited art. Accordingly, the Applicant respectfully requests that the Examiner allow claim 29-38.

Referring to independent claim 42, claim 42 recites in part “A portable key installation system” and a “portable keying device...adapted to...communicate at least one...encryption key...to the terminal communications unit” (underline added).

The Examiner indicates that the above recited subject matter is described by the Johnson (‘307) reference as cited with respect to claim 28.

The arguments for the allowance of claim 1 and 28 apply to the arguments for the allowance of claim 42. As explained with respect to claim 1, the Johnson reference fails to teach or suggest “A portable key installation system” and a “portable keying device...adapted to...communicate at least one...encryption key...to the terminal communications unit” (underline added).

In summary, the Johnson reference fails to teach at least one limitation of the Applicant's claim 42. Accordingly, the Applicant respectfully requests that the Examiner allow claim 42. As a matter of law, because claim 42 arguably distinguishes over the cited art, claims 43-48 which depend from claim 42, also arguably distinguish over the cited art. Accordingly, the Applicant respectfully requests that the Examiner allow claim 43-48.

Claim 8 recites in part "encryption key is installed". As explained above, the '307 reference does not teach or suggest installation of an encryption key. As a matter of law, because claim 8 arguably distinguishes over the cited art, claims 9-11 which depend directly or indirectly from claim 8, also arguably distinguish over the cited art. Accordingly, the Applicant respectfully requests that the Examiner allow claim 8-11.

Claim 12 recites in part "the secure encryption key memory location is a memory location in non-volatile memory". The Examiner indicates that the above recited subject matter is described by the Johnson ('307) reference and cites portions of Johnson including (Column 6, Line 36) through (Column 7, Lines 27). The Examiner also states that "non-volatile memory" has the same meaning as "associated memory". The applicant knows of no equivalence between the differing terminology and respectfully requests more support for such an assertion.

In summary, the Johnson reference fails to teach at least one limitation of the Applicant's claim 8-12. Accordingly, the Applicant respectfully requests that the Examiner allow claim 8-12. Claims 28 and 29 also recite in part, "transmitting an encryption key" which is absent from the '307 reference. Accordingly, the Applicant respectfully requests that the Examiner allow claim 28-29.

The Examiner states that claims 2-7, 31-35 and 43-48 are rejected under 35 U.S.C 103(a) as being unpatentable over Johnson ('307) in further view Nysen (6,433,671) (hereinafter '671).

The Nysen ('671) reference describes subject matter relating to an RF-ID tag reader and does not appear to describe subject matter relating to installing or communicating an encryption key, and further does not appear to describe any sort of actions associated with an encryption key.

Referring to claim 2, which depends from claim 1, it recites in part "A portable keying device...comprising...[a] communications unit being operative to transmit the at least one data communications encryption key in a predetermined format to the

Serial No.: 10/166,924
Amendment Dated: August 15, 2005
Reply to Office Action of April 15, 2005

electronic terminal" and it recites "the communications unit includes a low power-close proximity RF transceiver" (under line added).

With respect to claim 2, the Examiner states "It would have been obvious...to include a means for the tag to generate a radio signal". The Applicant asserts that the claim recites a "low power-close proximity RF transceiver". A means to generate a radio signal is not sufficient to constitute a "low power-close proximity RF transceiver". Accordingly, the Applicant respectfully requests that the Examiner allow claim 2.

Claims 3-7 depend directly or indirectly from claim 2, as a matter of law, because the cited art does not anticipate the subject matter of parent claim 2, the cited art cannot anticipate the subject matter of claims 3-7 which depend directly or indirectly from claim 2.

Furthermore, claim 3 recites in part "wherein the predetermined format includes transmitting an RF signal at a predetermined power level" (under line added).

With respect to claim 3, the Examiner indicates that the subject matter of this claim is taught within the '671 reference at Column 8, Lines 53-67. The '671 reference states "emitting an interrogation signal as a radio wave signal" and "comparing a respective signal strength of said plurality of mixed signals". Comparing relative strength of a plurality of signals does not constitute "transmitting an RF signal at a predetermined power level".

Also, claim 4 recites "wherein the predetermined power level is less than or equal to 1mW". With respect to claim 4, the Examiner indicates that the subject matter of this claim is taught within the '671 reference at (Column 14, Lines 1-10). The cited text of the '671 reference states "the voltage controlled oscillator is controlled to produce a...signal with a frequency" (underline added).

The Applicant asserts that control of a signal with respect to its frequency dose not constitute transmitting an RF signal at a predetermined power level that is less than or equal to 1mW, as claimed by the Applicant.

Claim 5 recites "wherein the RF signal has an effective range of less than or equal to a meter". With respect to claim 5, the Examiner indicates that the subject matter of this claim is taught within the '671 reference at (Column 34, Line 42) through (Column 35, Line 13). The cited text includes statements including "It is possible to tailor distances...by locating the antenna at the desired distance from the tag". The Applicant does not understand how the cited text teaches or suggests an "RF signal [that] has an effective range of less than or equal to a meter" as claimed by the Applicant.

Claim 6 recites "transmitting an RF signal in a predetermined direction". With respect to claim 6, the Examiner indicates that the subject matter of this claim is taught within the '671 reference at (Column 17, Lines 64-67). The Applicant does not understand how the cited text teaches or suggests "transmitting an RF signal in a predetermined direction", as claimed by the Applicant.

Claim 7 recites "transmitting an RF signal having a predetermined polarity". With respect to the subject matter of claim 7, the Examiner indicates that the subject matter of this claim is taught within the '671 reference at (Column 32, Lines 28-53). The cited text includes the statement "When the reference signal is one polarity, the modulated backscattered signal passes directly through the mixer. When the reference signal is of the opposite polarity, the modulated backscattered signal is inverted".

The '671 reference employs a mixer and a backscatter signal, for purposes other than for installing an encryption key. The Applicant claims "transmitting an RF signal having a predetermined polarity" for the purpose of installing an encryption key into an electronic terminal.

Claim 31 recites, in part, "transmitting RF signals having at least one predetermined transmission characteristic". With respect to the subject matter of claim 31, the Examiner indicates that the subject matter of this claim is taught within the '671 reference at (Column 8, Lines 53-67). The Applicants support for a "transmission characteristic" includes range, direction, polarity and programming voltage of the signal.

Serial No.: 10/166,924
Amendment Dated: August 15, 2005
Reply to Office Action of April 15, 2005

For reasons explained above, the cited references do not teach or suggest these types of limitations.

Claim 35, recites in part, "transmitting an RF signal having a predetermined modulation format that is characterized by a predetermined programming voltage". With respect to the subject matter of claim 35, the Examiner indicates that the subject matter of this claim is taught within the '671 reference at (Column 14, Lines 1-10). The applicants arguments with respect to claim 4 also apply to claim 35.

The Examiner states that claims 32-34 and 43-48 have substantially similar subject matter as claims 2-7 and are rejected along a similar rational. The Applicant responds to the rejection of claims 32-34 and 43-48 using the response of the Applicant for claims 2-7.

The Examiner states that claims 36-38 have substantially similar subject matter as claims 9-12 and are rejected along a similar rational. The Applicant responds to the rejection of claims 32-34 and 43-48 using the response of the Applicant for claims 9-12.

For at least the above reasons, the Applicant believes that the pending claims 1-16, 28-38 and 42-48 patentably distinguish over the references cited by the Examiner. The Applicant respectfully requests that the Examiner allow independent claims 1, 28 and 42 and the pending claims 2-16, 29-38 and 43-48 which collectively depend on the independent claims 1, 28 and 42.

The Examiner states that claims 13-16 and 17 are rejected under 35 U.S.C 103(a) as being unpatentable over Johnson ('307) in further view Tuttle et al. (6,078,791) (hereinafter '791).

The Tuttle ('791) reference describes subject matter relating to a radio frequency identification transceiver and antenna and does not appear to describe subject matter relating to installing or communicating an encryption key, and further does not appear to describe subject matter associated with an encryption key.

Note that claim 17 is no longer pending and canceled as a result as a response to a previous restriction.

Serial No.: 10/166,924
Amendment Dated: August 15, 2005
Reply to Office Action of April 15, 2005

The Applicant's claims 13-16 depend from claim 1. For the reasons described above, the '307 reference does not describe the subject matter of the Applicant's claim 1. As a result, the hypothetical combination of the '307 and the '791 references cannot constitute the subject matter of the Applicants claims 13-16 which all depend from the Applicants claim 1. Furthermore, one skilled in the art would not be motivated to combine the subject matter of the '307 and '791 patents which describe differing subject matter.

To summarize, the Applicant asserts that claims 1-16, 28-38 and 42-48 are allowable and requests allowance of the same. The Examiner is invited to contact Applicant's representative at the telephone number below to address any remaining issues. The Director is hereby authorized to charge any fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

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